

## PUBLIC HEALTH SERVICE COMMISSIONED CORPS PERSONNEL ACT OF 1959

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JULY 17, 1959.—Ordered to be printed

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Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

## R E P O R T

[To accompany S. 2220]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 2220) to strengthen the Commissioned Corps of the Public Health Service through revision and extension of some of the provisions relating to retirement, appointment of personnel, and other related personnel matters, and for other purposes, having considered the same, report favorably thereon with amendments and unanimously recommend that the bill, as amended, do pass.

## PURPOSE OF THE BILL

This is a bill recommended by the Department of Health, Education, and Welfare, with the approval of the Bureau of the Budget, which is designed to strengthen the Commissioned Corps of the Public Health Service by reestablishing parity for retirement purposes between officers of the Commissioned Corps of the Public Health Service and those in the Commissioned Corps of the Armed Forces.

The United States Public Health Service employs some 25,350 people. Of these, 3,350 are professional people—such as doctors, engineers, scientists, nurses, and radiological experts—who are in the Commissioned Corps. As members of the Commissioned Corps, they take orders from the Surgeon General. They move on an hour's notice, if so ordered, to a quarantine station in Burma, to a disease ridden area in Panama, or to an isolated Indian reservation in the United States. The corps provides medical officers for the Coast Guard and medical services in Federal penitentiaries. Its members are sent into plague-threatened areas. They cope with radiation hazards. They go where the Nation's health demands their presence. In time of war or national emergency, the President is authorized to convert the corps to full military status, as he did in World War II.

The purpose of the bill and its principal provisions were summarized in the Department's letter of transmittal which accompanied the draft of the bill. That letter reads as follows:

APRIL 13, 1951.

DEAR MR. PRESIDENT: There is enclosed a draft of a bill to strengthen the Commissioned Corps of the Public Health Service through revision and extension of some of the provisions relating to retirement, appointment of personnel, and other related personnel matters, and for other purposes, together with a detailed analysis thereof. This draft bill is similar to a draft bill transmitted by this Department to the Congress last year and introduced in the 85th Congress as S. 4312, H.R. 13812, and H.R. 13814. Since the close of the 85th Congress, we have carefully reviewed last year's bill and have determined that certain technical or clarifying changes are needed. These changes, embodied in the enclosed draft bill, do not alter the principles incorporated in the earlier bill.

The purpose of the proposed legislation is to assist the Public Health Service in recruiting and retaining competent personnel by strengthening the Commissioned Corps personnel system and by increasing its career attractiveness. The proposed legislation would—

1. Improve and strengthen the retirement system applicable to commissioned officers of the Regular Corps of the Service;

2. Remove commissioned officers of the Reserve Corps from coverage under the civil service retirement system and substitute therefor the retirement program applicable to commissioned officers of the Regular Corps;

3. More closely identify the retirement system applicable to Public Health Service commissioned officers with the system applicable to military personnel; and

4. Increase the number of appointments to the higher grades in the Regular Corps (full grade and above) which may be made each year by making the existing limitation (not more than 10 percent of original appointments authorized for the year) inapplicable to the appointment to the Regular Corps of active duty Reserve officers.

A major retirement proposal is an authorization for retirement after 20 years of service, subject to the Secretary's approval. Despite the fact that this proposal would authorize retirements 10 years earlier than is authorized under existing law, we believe that it would result in retaining in the Service more capable officers for longer periods of service.

Practically all the resignations from the career service occur during the first 15 years of service. Of the 559 Regular Corps medical officers who resigned during the period of 1946 through 1958, 221 had completed less than 5 years service, 272 had completed 5 through 9 years, 59 had completed 10 through 14 years, and only 7 had completed 15 or more years of service. An important reason for resignations after 5 years of service is the uncertain future resulting from the narrowly limited room at the top and the necessity under present law of completing 30 years of service in order to realize retirement benefits (unless retired for disability or on attainment of age 64). These resignations are particularly serious because of the investment in training which the Government has made, and because this is the group from which the future leaders of the Service must come.

The possibility of retirement after 20 years of service would encourage many excellent officers, who now resign after completion of a shorter though substantial period of service, to remain for at least 20 years. Moreover, experience in the military services (where 20-year retirements are now authorized) has shown that only a small number of officers of superior capability retire voluntarily after 20 years. They tend to remain because they are in positions which are professionally rewarding and personally challenging. In addition, it should be pointed out that the retired pay of those retiring after 20 years but before 30 years of service would be proportionately lower than the retired pay of those who complete the 30 years.

Under present law the Surgeon General may, upon his application and with the approval of the President, be retired after completion of 4 or more years as Surgeon General and 25 years of active commissioned service in the Public Health Service. It is proposed that this provision be extended to all general grade officers. In contrast to the military services, no permanent general grades are authorized within the Public Health Service Commissioned Corps personnel system. Consequently, an officer transferred out of one of the few general grade positions must revert to a lower pay grade and rank. This creates individual hardship and awkward administrative situations which may hamper the Surgeon General in the best utilization of his staff. The alternative of optional full retirement, after 25 years, for an officer who has been in the general grade for the required period of time would increase administrative flexibility and would not be unreasonable as a reward for an officer who was qualified to hold a position of such high responsibility.

Under existing law commissioned officers of the Reserve Corps of the Public Health Service are the only group within the uniformed services subject to the Civil Service Retirement Act. As in the other uniformed services, however, officers of the Regular Corps of the Public Health Service are under a noncontributory retirement program. Thus, Reserve officers of the Service, who receive the same pay as Regulars, are subject to the civil service retirement deduction of 6½ percent of their basic pay. No such deduction is made from the Regular officer's pay for his retirement benefits. This distinction is even more inequitable toward the reservist since he receives less retired pay than the Regular officer with the same pay and the same length of service. The draft bill would remedy this inequity by extending the Public Health Service staff retirement system for Regular officers to its reservists on active duty. Rights previously earned by the reservists under the Civil Service Retirement Act would be preserved.

Under present law a Regular Corps officer appointed after his 34th birthday and not later than his 45th birthday is retired for age at age 64 with retired pay computed at the rate of 75 percent of basic pay. Likewise, an officer who is appointed to the Regular Corps after his 45th birthday has his retired pay at age 64 computed at the rate of 4 percent for each year of service times basic pay. These two provisions are more liberal than provisions applicable to military personnel. For this reason, we are substituting for these provisions new methods for computing retired pay which are similar to those now applicable to military personnel. Basically, retired pay would be equal to 2½ percent per year of active service times basic pay. In

the case of physicians and dentists there would be added to the active service otherwise credited to them 4 or 5 years to compensate them for their professional schooling and internship which, under current law, are also credited for the computation of basic pay. In addition, officers who at the time of retirement have completed at least 12 full years of active service would receive retired pay of not less than 50 percent of basic pay. In no instance would retired pay exceed 75 percent of basic pay. The existing provisions relating to retirement and the computation of retired pay would continue to apply to Regular Corps officers on active duty at the time of enactment if the new provisions were less favorable.

The enclosed draft bill would amend the Public Health Service legislation in several other less significant respects in order to bring the Service's retirement system closer to parity with those of the military services. These amendments would—

1. Credit military service for purposes of retirement;
2. Authorize officers to retire at the highest grade held, temporary or permanent; and
3. Authorize a major fraction of a year to be counted as a full year in the computation of retired pay.

The Public Health Service Act presently limits original appointments to the Regular Corps in the full grade or above to 10 percent of the vacancies in the overall Regular Corps strength. Over the past several years this limitation has permitted on an average only 26 such appointments each year. Consequently, to meet the need for additional highly qualified professional and scientific personnel for the new or expanding responsibilities of the Service, many officers have been appointed to the higher grades in the Reserve Corps. There are now approximately 400 such Reserve officers on active duty in the higher grades. Since only a few of these can, under the present limitation, be appointed to the Regular Corps in the higher grades for which their ability and experience would qualify them and since the responsibilities of the Service will necessitate additional appointments of this nature to the Reserve Corps, the number of these officers in the Reserve Corps will continue to increase with the passage of each year.

We believe a large proportion of these officers are qualified for the career service and are anxious to obtain the tenure which the career service affords. A transfer from the Reserve to the Regular Corps would thus provide a substantial inducement for these highly qualified and experienced officers to remain with the Service instead of resigning to seek more secure employment. Their transfer to the Regular Corps would also provide a better balanced staff in the permanent operating programs of the Service. The bill would therefore make the 10 percent limitation on the higher grade appointments in the Regular Corps inapplicable to members of the Reserve Corps appointed to the Regular Corps after they have been in the Reserve Corps for a year (but less than 3½ years).

There is also enclosed a detailed analysis of the draft bill.

Since the enactment of the enclosed draft bill would not in the foreseeable future entail annual expenditure of appropriated funds in excess of \$1 million, the provisions of Public Law 801, 84th Congress, are not applicable.



The Bureau of the Budget advises that it perceives no objection to the submission of this proposed legislation to the Congress for its consideration.

Sincerely yours,

ARTHUR S. FLEMMING,  
*Secretary.*

The PRESIDENT,  
*United States Senate,*  
*Washington, D.C.*

#### COMMITTEE AMENDMENTS

The committee considered and adopted three minor amendments to the bill as originally introduced. On line 4, of page 2, the word "had" was inserted after the word "has" in order to correct a typographical error.

The second amendment adopted resulted in striking out the phrase "other than the Coast and Geodetic Survey" from line 21, on page 6, and from line 7, on page 7. Two members of the commissioned corps served for some years with the Coast and Geodetic Survey performing duties comparable to those they perform in the Public Health Service. The committee believes that, in equity, they should be entitled to count those years of service in estimating their eligibility for retirement. The amendment would make this possible.

The third amendment adopted was to strike the word "commissioned" from line 23, of page 5. As originally introduced the bill provided for the retirement of certain officers after 25 years of "active commissioned service." This would have resulted in an inequity to three officers in the Service who rendered some years of active professional service as civil service employees rather than as commissioned officers. As a result of striking the word "commissioned" from the above-mentioned phrase, such officers will be entitled, for retirement purposes, to count up to 5 years of such civil service employment if the Surgeon General determines that service to have been comparable to service performed by commissioned officers.

#### SECTION BY SECTION ANALYSIS

##### SECTION 1

This section provides a short title for the bill—the "Public Health Service Commissioned Corps Personnel Act of 1959."

##### SECTION 2

This section would preclude officers from being appointed or called to active duty in the commissioned corps at an age beyond which they could not complete the minimum career service of 20 years for purposes of retirement unless they possess exceptional qualifications. Exceptions to this limitation would be made in the case of Reserve officers who are called to active duty for 1 year or less or in the event that the commissioned corps of the Service is declared by the President to be a military service.

## SECTION 3

The number of higher grade appointments (full grade or above) authorized to be made in the Regular Corps in any fiscal year under section 207 of the Public Health Service Act is 10 percent of—

(a) The number of vacancies existing on the first day of the fiscal year in the strength of the Regular Corps authorized by Congress in the appropriation act; plus

(b) The number of officers in the Regular Corps who during that fiscal year retire or for any other reason cease to be on active duty.

Section 3 of the bill would amend section 207 of the Public Health Service Act to permit those Reserve officers presently on active duty at the full grade or above to be appointed in the Regular Corps regardless of the number of years they have been on active duty, if they have been on active duty for at least 1 year prior to July 1, 1959, and they apply for appointment prior to July 1, 1961. Under section 207, as so amended, Reserve officers entering on active duty after June 30, 1959, would be required to serve on active duty continuously for at least a year before appointment to the Regular Corps, but they could not apply for such appointment after they had served continuously for more than 3½ years. If such requirements are not met, or if a person outside the Service applies for appointment in one of the higher grades in the Regular Corps, the existing 10-percent limitation would still apply.

## SECTION 4

This section would revise the existing section 211 of the Public Health Service Act, with respect to the retirement of Regular or Reserve officers of the Public Health Service, in a number of respects. The subsections and paragraphs referred to below are subsections and paragraphs of the amended section 211.

Subsection (a) sets forth the eligibility requirements and the methods of computing retired pay in case of retirement for length of service or age (64 years) of commissioned officers of the Service.

Paragraph (1) of subsection (a) provides that all officers shall be retired on the 1st day of the month following their 64th birthday. This provision does not represent any change in existing law.

Paragraph (2) of subsection (a) provides that commissioned officers may be retired by the Secretary, and shall be retired upon their application, after completion of 30 years of active service. This provision, which is contained in existing law for Regular officers, would be applicable to Reserve officers as well.

Paragraph (3) of subsection (a) provides for voluntary retirement with the approval of the Secretary, or involuntary retirement by the Secretary, upon completion of 20 or more but less than 30 years of service for both Regular and Reserve officers. Although this provision would provide a new benefit for Public Health Service officers, it parallels similar provisions applicable to members of the military services.

Paragraph (4) of subsection (a) would establish the methods under which retired pay would be computed for active duty officers retiring for age or length of service (20 or 30 years). Under these methods, retired pay would be computed on (i) the basic pay of an officer's permanent grade at the time of retirement or (ii) the basic pay of a

higher temporary grade in which he has served on active duty for not less than 6 months and which he would be entitled to receive if serving in such grade at the time of retirement. Basically, retired pay would be equal to  $2\frac{1}{2}$  percent per year of active service times basic pay. In the case of physicians and dentists, there would be added to the active service otherwise credited to them 4 years, to compensate for professional education, and 1 additional year for a medical internship, which years, under current law, are also credited for the computation of basic pay. If, however, any period of such professional education or internship is counted as active service, it will be deducted from the 4 or 5 years. In addition, officers who are retiring for age, who at that time have completed at least 12 full years of active service and who do not use for civil service retirement purposes any service also creditable under the Public Health Service retirement system would be entitled to receive retired pay at the minimum rate of 50 percent of basic pay. In no event would retired pay exceed 75 percent of basic pay. Application of these new methods for computing retired pay constitutes a major change in the existing methods of computing retired pay under such circumstances. Under present law a Regular Corps officer appointed after his 34th birthday and not later than his 45th birthday is retired for age at age 64 with retired pay computed at the rate of 75 percent of basic pay. Likewise, an officer who was appointed to the Regular Corps after his 45th birthday and who is now retired for age has his retired pay computed at the rate of 4 percent for each year of service times basic pay. This change in computing retired pay parallels the formulas applicable to the computation of retired pay for military personnel.

Paragraph (5) of subsection (a) would authorize the Surgeon General, the Deputy Surgeon General, and Assistant Surgeons General to be retired, with the approval of the President, after completion of 25 years of active commissioned service in the Public Health Service and after 4 or more years in any one or a combination of the general officer grades. This provision, which is presently applicable only to the Surgeon General, parallels provisions applicable to the military services, inasmuch as all military medical and dental officers may retire after 26 years of service (after 25 years of service for medical officers in some instances) with full retired pay.

Subsection (b) of the amended section 211 of the Public Health Service Act provides that if retired pay is computed under subsection (a)(4) of the same section on the basis of the highest temporary grade held, the basic pay involved in the computation would be that pay to which the officer would be entitled if serving on active duty in such grade on the date of his retirement, regardless of the pay or pay grade of such grade at the time the officer served in such grade. This provision is similar to provisions currently applicable to the members of the military services.

Subsection (c) of the amended section 211 extends to Reserve officers entitled to retired pay under the Public Health Service staff retirement program an existing provision of law which permits the involuntary recall to active duty of Regular Corps officers during periods when the Commissioned Corps is a military service.

Subsection (d) of the amended section 211 defines the term "active service" for purposes of establishing eligibility for and the computation of retired pay. It would include (i) all active service in any of the

uniformed services, including the Commissioned Corps of the Public Health Service, but excluding the Coast and Geodetic Survey; (ii) employment with the Public Health Service, other than as a commissioned officer, but not to exceed the last 5 years of such employment preceding retirement whether or not such years are continuous, and limited to those types of employment which are performed by commissioned officers; and (iii) all other active service in another uniformed service (excluding the Coast and Geodetic Survey) which is creditable for retirement purposes under laws governing the retirement of members of such other uniformed service. This subsection would change existing law in two major respects. It would authorize credit, for all retirement purposes, of active service in the other uniformed services, excluding the Coast and Geodetic Survey. Moreover, it would limit to a maximum of 5 years (the last 5 years) the crediting of civilian service with the Public Health Service.

Subsection (e) of the amended section 211 would authorize the crediting of a part of a year of 6 months or more as a whole year for purposes of determining the number of years by which the appropriate percentage ( $2\frac{1}{2}$  percent) of an officer's basic pay would be multiplied to compute his retired pay. This follows the law applicable to the military services.

Subsection (f) of the amended section 211 would, in addition to a few drafting changes, amend the existing subsection (g) of section 211 to impose, with respect to the crediting of noncommissioned employment in the Public Health Service for disability retirement purposes, the same limitations as are contained in subsection (d) of the amended section 211, described above.

#### SECTION 5

Subsection (a) of section 5 of the bill would amend section 2 of the Public Health Service Act to add a new subsection (p) defining "uniformed service." The term would include the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.

Subsection (b) of section 5 would amend section 208(b) of the Public Health Service Act to authorize Reserve officers retired for age, length of service, or disability to purchase supplies, such as quartermaster supplies, from the military services on the same basis as such supplies may be purchased by officers of the military services. The present provision is further amended by deleting the word "quartermaster," as supplies sold by services other than the Army are not known as "quartermaster" supplies.

Subsection (c) of section 5 would amend section 210(g)(3) of the Public Health Service Act which relates to the retired pay of a full grade officer of the Regular Corps who is twice passed over for permanent promotion to the senior grade and who is subsequently retired. The bill would make it clear that his retired pay would be computed on the basis of the basic pay of his permanent grade.

Subsection (d) of section 5 would amend section 326(a) of the Public Health Service Act to delete therefrom all references to retired personnel of the Coast Guard, Coast and Geodetic Survey, and Public Health Service. The inclusion of such personnel in the existing section 326(a) permits such persons to receive medical care from



civilian facilities in emergencies. Such benefit is not available to retired personnel of the military services who are entitled to medical care only at medical facilities of the uniformed services pursuant to section 301(b) of the Dependents' Medical Care Act. The only intent of this amendment is to establish parity between retired personnel of the Coast Guard, Coast and Geodetic Survey, and Public Health Service and retired personnel of the military services.

#### SECTION 6

One of the main purposes of this section is to safeguard rights earned under the Civil Service Retirement Act for Reserve officers transferred from the civil service retirement system to the staff retirement system proposed by this bill.

Subsection (a) of section 6 provides that service, prior to July 1, 1959, as a commissioned officer of the Regular Corps of the Public Health Service shall be considered, for purposes of credit under the Civil Service Retirement Act, as civilian service. (Service in the Reserve Corps is already considered as civilian service for the purposes of such act.) Such Regular Corps service would not, however, be considered as civilian service for purpose of section 3(f) of the act which requires 5 years of civilian service for eligibility for an annuity under the act. In other words, such Regular Corps service would be creditable under the act only if the officer, after his resignation from the Service, completed 5 years in a civil service position subject to the act. One additional exception to this general provision is made in subsection (b) of section 6 (explained below). Also, this subsection provides that Reserve officers, whether on active duty or in an inactive status, shall be considered as voluntarily separated on June 30, 1959, from civilian positions subject to the Civil Service Retirement Act. Under this provision any Reserve officer who, as of July 1, 1959, had 5 years or more of service creditable under the Civil Service Retirement Act, including his Public Health Service Reserve service, could elect to leave his money in the civil service retirement fund and receive a deferred annuity based on such service commencing at age 62.

Subsection (b) provides the general rule which would preclude the crediting of service under the Civil Service Retirement Act in the case of an officer retiring from the Public Health Service, if such service is also creditable for retirement purposes under the Public Health Service staff retirement system. Any service which is so creditable, such as active commissioned Reserve service before July 1, 1959, or civil service employment with the Public Health Service performed at any time, would not, except as explained below, be credited for civil service retirement purposes upon an officer's retirement under the Public Health Service staff retirement plan, regardless of whether such service would be used in the computation of the officer's retired pay from the Public Health Service. If, however, an officer has, at the time of his retirement from the Public Health Service for age or length of service, service which is dually creditable under both the Civil Service Retirement Act and the Public Health Service staff retirement system and which was performed before July 1, 1959, and has not applied for and received a refund of his civil service retirement deductions covering such service, he may waive the use of such

credits in computing his Public Health Service retired pay and use such credits for annuity purposes under the Civil Service Retirement Act. For example, an officer, who had 10 years of active Reserve service on January 1, 1959, and 20 years of such service thereafter, applies for retirement upon completion of 30 years of service. He may elect to have his retired pay from the Public Health Service computed at the rate of  $2\frac{1}{2}$  percent times 30 years times basic pay, or at the rate of  $2\frac{1}{2}$  percent times 20 years times basic pay, thus permitting the officer to use his 10 years of service before July 1, 1959, for civil service retirement purposes.

Subsection (c) of section 6 amends section 1(r) of the Civil Service Retirement Act. This section defines "military service" for purposes of that act. The amendment would bring service after June 30, 1959, in the Regular or Reserve Corps of the Public Health Service within the meaning of the term.

#### SECTION 7

Under an amendment to the Civil Service Retirement Act, enacted in 1956, no service in a uniformed service performed after 1956, may be creditable thereunder if a person is or becomes eligible for old-age, survivors, and disability insurance payments. The purpose of this limitation is to preclude a civilian employee who enters military service from having this period of service credited under both programs. As the Civil Service Retirement Act authorizes a civilian employee to receive gratuitous credit for military service, this limitation is not unreasonable. Public Health Service Reserve officers, however, are compelled to pay for both civil service retirement (at the rate of  $6\frac{1}{2}$  percent of basic pay) and old-age, survivors, and disability insurance (at the rate of  $2\frac{1}{4}$  percent of basic pay through 1958 and, since then  $2\frac{1}{2}$  percent) with respect to their service after 1956 and, assuming enactment of the enclosed draft bill, before July 1, 1959. Yet, the limitation described above is applicable to this group of officers who are the only group of Federal personnel in this situation. Section 7 of the draft bill would resolve this unusual situation to some extent, by permitting such an officer (or his survivors) to use such service for civil service retirement purposes or for purposes of old-age, survivors, and disability insurance, as he (or his survivors) may elect.

#### SECTION 8

Subsections (a) and (b) of section 8 provide effective dates for the amendments made by the bill.

Subsection (c) is a savings provision pertaining to officers of the Regular Corps on active duty on the date of enactment of the bill (including officers on detail on a leave-without-pay basis). Its purpose would be to enable such officers to retire and have their retired pay computed under either the old or the new section 211, at their election.

Subsection (d) of section 8 is a savings provision for Reserve officers on active duty on June 30, 1959 (including those on detail on a leave-with-pay basis). Under the existing section 211 Reserve officers are, for purposes of disability retirement, credited with all their civilian service with the Public Health Service. Under the amended section

211 the crediting of such service would be limited to 5 years. Thus, to prevent a loss in existing retirement credits, subsection (d) would provide that all Reserve officers on active duty on June 30, 1959, could use the service with which they are credited on the preceding day for purposes of disability retirement under the amended section 211.

#### CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

### PUBLIC HEALTH SERVICE ACT, AS AMENDED

#### TITLE I—SHORT TITLE AND DEFINITIONS

##### SHORT TITLE

SEC. 1. Titles I to VII, inclusive, of this Act may be cited as the "Public Health Service Act".

##### DEFINITIONS

SEC. 2. When used in this Act—

- (a) The term "Service" means the Public Health Service;
- (b) The term "Surgeon General" means the Surgeon General of the Public Health Service;
- (c) The term "Administrator" means the Federal Security Administrator;<sup>1</sup>
- (d) The term "regulations", except when otherwise specified, means rules and regulations made by the Surgeon General with the approval of the Administrator;
- (e) The term "executive department" means any executive department, agency, or independent establishment of the United States or any corporation wholly owned by the United States;
- (f) The term "State" means a State or the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands, except that as used in section 361(d) such term means a State, the District of Columbia, or Alaska;
- (g) The term "possession" includes, among other possessions, Puerto Rico and the Virgin Islands;
- (h) The term "seamen" includes any person employed on board in the care, preservation, or navigation of any vessel, or in the service, on board, of those engaged in such care, preservation, or navigation;
- (i) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, exclusive of aircraft and amphibious contrivances;

<sup>1</sup> Reorganization Plan No. 1 of 1953, 67 Stat. 631, abolished the Office of Federal Security Administrator, and, effective April 11, 1953, all functions of that Office were transferred to the Secretary, Department of Health, Education, and Welfare. Accordingly, for all actions subsequent to April 10, 1953, the term "Administrator" as here used should be read as meaning the Secretary of the Department of Health, Education, and Welfare.

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts and preparations; opiates (as defined in section 3228(f) of the Internal Revenue Code);

(k) The term "addict" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction;

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation; [and]

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the [mouth.] mouth; and

(p) *The term "uniformed service" means any regular or reserve component of the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey.*

## TITLE II—ADMINISTRATION

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### APPOINTMENT OF PERSONNEL

SEC. 207. (a)(1) Except as provided in subsections (b) and (e) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to an including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for an indefinite period and may be terminated at any time, as the President may direct.

(3) *No individual who has attained the age of forty-four shall be appointed to the Regular Corps, or called to active duty in the Reserve Corps for a period in excess of one year, unless (A) he has had a number of years of active service (as defined in section 211(d) equal to the number of years by which his age exceeds forty-four, or (B) the Surgeon General*



*determines that he possesses exceptional qualifications, not readily available elsewhere in the Commissioned Corps of the Public Health Service, for the performance of special duties with the Service, or (C) in the case of an officer of the Reserve Corps, the Commissioned Corps of the Service has been declared by the President to be a military service.*

(b) (1) Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day on such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate. [No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.]

(2) *In addition to the number of original appointments to the Regular Corps authorized by paragraph (1) to be made to grades above that of senior assistant, original appointments authorized to be made to the Regular Corps in any year may be made to grades above that of senior assistant, but not above that of director, in the case of any individual who—*

(A) (i) *was on active duty in the Reserve Corps on July 1, 1959, (ii) was on such active duty continuously for not less than one year immediately prior to such date, and (iii) applies for appointment to the Regular Corps prior to July 1, 1961; or*

(B) *does not come within clause (A) (i) and (ii) but was on active duty in the Reserve Corps continuously for not less than one year immediately prior to his appointment to the Regular Corps and has not served on active duty continuously for a period, occurring after June 30, 1959, of more than three and one-half years prior to applying for such appointment.*

(3) *No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.*

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#### PAY AND ALLOWANCES

SEC. 208. (a) Commissioned officers of the Regular and Reserve Corps shall be entitled to receive such pay and allowances as are now or may hereafter be authorized by law.

[(b) In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve Corps on active duty may make allotments from their pay. Such officers shall also be permitted to purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged officers of the Army, Navy, and Marine Corps.]

(b) *In accordance with regulations of the President, commissioned officers on active duty may make allotments from their pay. Such officers, and retired officers entitled to retired pay pursuant to section 210(g)(3), section 211, or section 221(a), shall be permitted to purchase supplies from the Army, Navy, Air Force, and Marine Corps at the same price as is charged officers thereof.*

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#### PROMOTIONS AND SEPARATION OF COMMISSIONED OFFICERS IN THE REGULAR CORPS

##### SEC. 210. (a) \* \* \* \*

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(g) If, for reasons other than physical disability, an officer of the Regular Corps in the junior assistant grade is found pursuant to subsection (c) not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of  $2\frac{1}{2}$  per centum [of his active duty pay at the time of retirement for each complete year] of the basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service.

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#### RETIREMENT OF COMMISSIONED OFFICERS

[Sec. 211. (a) A commissioned officer shall be retired on the first day of the month following the month in which he attains the age of sixty-four years; and a commissioned officer may be retired by the Administrator, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active commissioned or noncommissioned service in the Service. If he is an officer in the Regular Corps, he shall, except as provided in subsection (b), be entitled to receive retired pay at the rate of 75 per centum of his active pay at the time of retirement.

[(b) (1) Any commissioned officer of the Regular Corps who at the time of his original appointment was more than forty-five years of age shall upon his retirement for age pursuant to subsection (a) of this section be entitled to retired pay at the rate of 4 per centum of his active pay at the time of such retirement for each twelve months of active commissioned or noncommissioned service in the Service, including any active commissioned service in the Armed Forces, but in no case more than 75 per centum of such active pay.

[(2) The retired pay of an officer, who is retired pursuant to subsection (a) of this section or pursuant to paragraph (1) of this subsection and who has served four years or more as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General, shall be based on the pay of the highest grade held by him as such Surgeon General, Deputy Surgeon General, or Assistant Surgeon General.

[(c) A commissioned officer who has been retired under the provisions of this section may, (1), if an officer of the Regular Corps, be involuntarily recalled to active duty during such times as the Corps may constitute a branch of the land and naval forces of the United States, and (2), if an officer of either the Regular Corps or the Reserve Corps, be recalled to active duty at any time with his consent.

[(d) With the approval of the President a commissioned officer who has served four years or more as Surgeon General and who has had not less than twenty-five years of active commissioned service in the Service may retire voluntarily, either at the termination of his term as Surgeon General or at any time thereafter; and his retired pay shall be at the rate of 75 per centum of the pay of the highest grade held by him as such Surgeon General.

[(e) Commissioned officers of the Reserve Corps, while on active duty, shall be deemed to be officers of the executive branch of the Government within the meaning of section 3 of the Civil Service Retirement Act, as amended (U.S.C., 1940 edition, title 5, section 693).

[(f) An officer of the Regular Corps in the senior assistant grade in a category in which the full grade is a restricted grade, who has had twenty years of active commissioned or noncommissioned service in the Service (including any active Federal service in the armed forces) or has attained the age of fifty, or an officer of the Regular Corps in the full grade in a category in which the senior grade is a restricted grade, who has had twenty-five years of such service or has attained the age of fifty-five, may be retired in accordance with regulation of the Administrator if he has not been found pursuant to section 210(c) to be qualified for promotion to the full grade or the senior grade, as the case may be. The retired pay of any such officer shall be at the rate of 2½ per centum of his active duty pay at the time of retirement for each complete year, not in excess of thirty, of such service.

[(g) For the purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with his service, other than commissioned service with the Public Health Service. For such purposes, section 1208(a)(2) is applicable to officers of the Reserve Corps and to officers of the Regular Corps.]

SEC. 211. (a)(1) *A commissioned officer of the Service shall be retired on the first day of the month following the month in which he attains the age of sixty-four years.*

(2) *A commissioned officer of the Service may be retired by the Secretary, and shall be retired if he applies for retirement, on the first day of any month after completion of thirty years of active service.*

(3) *Any commissioned officer of the Service who has had less than thirty years of active service may be retired by the Secretary, with or without application by the officer, on the first day of any month after completion*

of twenty or more years of active service of which not less than ten are years of active commissioned service in any of the uniformed services.

(4) A commissioned officer retired pursuant to paragraph (1), (2), or (3) shall be entitled to receive retired pay at the rate of  $2\frac{1}{2}$  per centum of the basic pay of the highest grade held by him as such officer and in which, in the case of a temporary promotion to such grade, he has performed active duty for not less than six months, (A) for each year of active service, or (B) if it results in higher retired pay, for each of the following years:

(i) his years of active service (determined without regard to subsection (d)) as a member of a uniformed service; plus

(ii) in the case of a medical or dental officer, four years and, in the case of a medical officer, who has completed one year of medical internship or the equivalent thereof, one additional year, the four years and the one year to be reduced by the period of active service performed during such officer's attendance at medical school or dental school or during his medical internship;

except that (C) in the case of any officer whose retired pay, so computed, is less than 50 per centum of such basic pay, who retires pursuant to paragraph (1) of this subsection, who has not less than twelve whole years of active service (computed without the application of subsection (e)), and who does not use, for purposes of a retirement annuity under the Civil Service Retirement Act, any service which is also creditable in computing his retired pay from the Service, it shall, instead, be 50 per centum of such pay, and (D) the retired pay of an officer shall in no case be more than 75 per centum of such basic pay.

(5) With the approval of the President, a commissioned officer whose service as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General has totaled four years or more and who has had not less than twenty-five years of active service in the Service may retire voluntarily at any time; and his retired pay shall be at the rate of 75 per centum of the basic pay of the highest grade held by him as such officer.

(b) For purposes of subsection (a), the basic pay of the highest grade to which a commissioned officer has received a temporary promotion means the basic pay to which he would be entitled if serving on active duty in such grade on the date of his retirement.

(c) A commissioned officer, retired for reasons other than for failure of promotion to the senior grade, may (1) if an officer of the Regular Corps or an officer of the Reserve Corps entitled to retired pay under subsection (a), be involuntarily recalled to active duty during such times as the Commissioned Corps constitutes a branch of the land or naval forces of the United States, and (2) if an officer of either the Regular or Reserve Corps, be recalled to active duty at any time with his consent.

(d) The term "active service", as used in subsection (a), includes—

(1) all active service in any of the uniformed services;

(2) active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service only the last five years thereof may be included; and

(3) all active service (other than service included under the preceding provisions of this subsection) which is creditable for retirement



*purposes under laws governing the retirement of members of any of the uniformed services.*

(e) *For the purpose of computing the amount of the retired pay of any officer pursuant to section 210(g)(3) or paragraph (4) of subsection (a) of this section, a part of a year of active service of six months or more shall be counted as a whole year and a part of a year of active service which is less than six months shall be disregarded.*

(f) *For purposes of retirement or separation for physical disability under chapter 61 of title 10, United States Code, a commissioned officer of the Service shall be credited, in addition to the service described in section 1208(a)(2) of that title, with active service with the Public Health Service, other than as a commissioned officer, which the Surgeon General determines is comparable to service performed by commissioned officers of the Service, except that, if there are more than five years of such service, only the last five years thereof may be so credited. For such purposes, such section 1208(a)(2) shall be applicable to officers of the Regular or Reserve Corps of the Service.*

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### TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

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#### PART C—HOSPITALS, MEDICAL EXAMINATIONS, AND MEDICAL CARE

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#### SERVICES TO COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE

SEC. 326. (a) Subject to regulations of the President—

(1) commissioned officers, chief warrant officers, warrant officers, cadets, and enlisted personnel of the Regular Coast Guard [ , including those on shore duty and those on detached duty, whether on active duty or retired ] *on active duty, including those on shore duty and those on detached duty*; and Regular and temporary members of the United States Coast Guard Reserve when on active duty [ or when retired for disability ];

(2) commissioned officers, ships' officers, and members of the crews of vessels of the United States Coast and Geodetic Survey [ , including those on shore duty and those on detached duty, whether on active duty or retired ] *on active duty, including those on shore duty and those on detached duty*; and

[ (3) commissioned officers of the Regular Corps of the Public Health Service, whether on active duty or retired, and commissioned officers of the Reserve Corps when on active duty or when retired for disability; ]

*(3) commissioned officers of the Regular or Reserve Corps of the Public Health Service on active duty*;  
shall be entitled to medical, surgical, and dental treatment and hospitalization by the Service. The Surgeon General may detail commissioned officers for duty aboards vessels of the Coast Guard or the Coast and Geodetic Survey.

## SECTION 1(r) OF THE CIVIL SERVICE RETIREMENT ACT

## DEFINITIONS

SECTION 1. Wherever used in this Act—

(a) \* \* \*

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(r) The term "military service" shall mean honorable active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, or, after June 30, 1959, in the Regular Corps or Reserve Corps of the Public Health Service, but shall not include service in the National Guard except when ordered to active duty in the service of the United States.

## SECTION 215 OF THE SOCIAL SECURITY ACT

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## ROUNDING OF BENEFITS

(g) The amount of any primary insurance amount and the amount of any monthly benefit computed under section 202 or 223 which (after reduction under section 203(a)) is not a multiple of \$0.10 shall be raised to the next higher multiple of \$0.10.

(h) (1) Notwithstanding the provisions of the Civil Service Retirement Act, remuneration paid for service to which the provisions of section 210(m)(1) of this Act are applicable and which is performed by an individual as a commissioned officer of the Reserve Corps of the Public Health Service prior to July 1, 1959, shall not be included in computing entitlement to or the amount of any monthly benefit under this title, on the basis of his wages and self-employment income, for any month after June 1959 and prior to the first month with respect to which the Civil Service Commission certifies to the Secretary that, by reason of a waiver filed as provided in paragraph (2), no further annuity will be paid to him, his wife, and his children, or, if he has died, to his widow and children, under the Civil Service Retirement Act on the basis of such service.

(2) In the case of a monthly benefit for a month prior to that in which the individual, on whose wages and self-employment income such benefit is based, dies, the waiver must be filed by such individual; and such waiver shall be irrevocable and shall constitute a waiver on behalf of himself, his wife, and his children. If such individual did not file such a waiver before he died, then in the case of a benefit for the month in which he died or any month thereafter, such waiver must be filed by his widow, if any, and by or on behalf of all his children, if any; and such waivers shall be irrevocable. Such a waiver by a child shall be filed by his legal guardian or guardians, or, in the absence thereof, by the person (or persons) who has the child in his care.